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DeNUCCI SAYS MBTA BILLBOARD CONTRACT SNAFU
RESULTS IN LOST REVENUE OPPORTUNITY

State Auditor Joe DeNucci reported today that the Massachusetts Bay Transportation Authority (MBTA) lost out on the potential for up to \$16.3 million in revenue in a new outdoor advertising contract because it failed to establish ownership rights to billboard structures on T property in a flawed 1998 advertising contract.

Although DeNucci said the MBTA acted within its legal rights last year when it rejected two bids for a new license and negotiated solely with the existing licensee, Clear Channel Outdoor, Inc., he added that the T lost a considerable amount of bargaining leverage in these negotiations because of the mistakes made in the previous 1998 license.

The MBTA awarded the new 15-year license to Clear Channel last March after determining that bids from Clear Channel and Viacom Outdoor Group, Inc., failed to comply with its Request for Qualifications and Bids. The MBTA had put the advertising out to bid for the first time last year after repeated urgings from DeNucci's office.

However, the audit stated, as a result of the flawed 1998 contract, the T failed to establish that it would assume ownership of the billboard structures at the end of the 1998 lease and also failed to clarify its right to build new structures under the federal Highway Beautification Act. As a result, Clear Channel was able to throw the bid process into disarray by threatening to tear down the billboards and filing a lawsuit challenging the right of the T or any other bidders to replace the existing structures. The MBTA then went ahead and negotiated the new license agreement with Clear Channel, excluding Viacom from these negotiations.

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The new 15-year agreement with Clear Channel calls for \$21.5 million in total minimum guaranteed payments. Although that will generate an additional \$7.4 million for the T over the term of the contract, it is \$10.3 million less than what Viacom offered for the first 15 years of its rejected bid. Under the original bids for a 20-year license, Clear Channel offered \$16.3 million less than Viacom. In addition, the T waived \$5.8 million in capital costs that were have to been incurred by Clear Channel and failed to negotiate increased payments to offset the waiver.

“The MBTA misjudged the effect that the flawed terms of the 1998 license would have on future bidding for the advertising license,” said DeNucci. “The T should have aggressively pursued all legal options and secured all the necessary permits to regain control of these advertising sites on its property. By not doing so, the T lost out on the opportunity for a fair, open and competitive bid process that might have resulted in millions of dollars in additional advertising revenue.”